plaintiff has been damaged intentionally by the defendant, he can recover. *Steinmetz* v. *Kelly*, 72 Ind. 442. Also where the defendant observes the danger and proceeds with wanton disregard of consequences the damaged plaintiff is compensated. *Aiken* v. *Holyoke R. Co.*, 184 Mass. 269, 68 N. E. 238. And thus where the plaintiff, although negligent, is helpless to avoid the accident, and the defendant by the use of due care could avoid it, a recovery is allowed. *Nashua Iron and Steel Co.* v. *Worcester & Nashua R. Co.*, 62 N. H. 159. See *Nieboer* v. *Detroit Electric Ry. Co.*, 128 Mich. 486, 491, 87 N. W. 626, 628. As both would be liable to an injured third party, it is apparent that the "last clear chance" doctrine cannot be supported on the ground that the plaintiff's negligence was not a legal cause of the accident. It is in fact an arbitrary modification of a harsh rule; which is justified because in the great majority of cases it places the loss on the man who is most to blame. The now discredited rule of comparative negligence may have been more scientific, but the "last clear chance" doctrine is far easier of practical application, and does not lodge such unlimited power in the hands of the jury.

CORPORATIONS — CAPITAL, STOCK, AND DIVIDENDS — STOCKHOLDERS' RIGHT TO RECOVER DIVIDENDS INFORMALLY DECLARED. — The stockholders of a corporation, who included the directors, met and unanimously but without formal resolution agreed to a division of profits. Accordingly, credits were placed on the books to each of the stockholders, some of whom withdrew their share. Subsequently, the corporation became bankrupt. *Held*, that a stockholder has a provable claim for the amount credited him. *Spencer* v. *Lowe*, 198 Fed. 961 (C. C. A., Eighth Circ.).

After a dividend is properly declared and set aside, the stockholder may claim it against creditors of the corporation. *Le Roy* v. *Globe Ins. Co.*, 2 Edw. Ch. (N. Y.) 657; *Matter of Le Blanc*, 14 Hun (N. Y.) 8. If it is not segregated, he has a provable claim as a creditor. *McLaran* v. *Crescent Planing Mill Co.*, 117 Mo. App. 40, 93 S. W. 819. See *Hunt* v. *O'Shea*, 69 N. H. 600, 601, 45 Atl. 480. Where the power to declare dividends is vested in the directors, the stockholders perhaps cannot act. See *Grant* v. *Ross*, 100 Ky. 44, 48, 37 S. W. 263. But where all directors attend the meeting in which dividends are declared, and assent, this objection seems unavailable. See 2 MACHEN, CORPORATIONS, § 1191. But *cf. Gashwiler* v. *Willis*, 33 Cal. 11. The question then is as to the formality necessary to a proper declaration of dividends. Under statutes making directors liable for declaring illegal dividends, a distribution of profits is held a dividend. *Rorke* v. *Thomas*, 56 N. Y. 559; *Pennsylvania Iron Works Co.* v. *MacKenzie*, 190 Mass. 61, 76 N. E. 228. Where the rights of no third party are involved, and unanimous consent is given, informality of declaration does not prevent the stockholder from recovering a dividend. *Central of Georgia R. Co.* v. *Central Trust Co.*, 135 Ga. 472, 69 S. E. 708; *Barnes* v. *Spencer & Barnes Co.*, 162 Mich. 509, 127 N. W. 752; *Breslin* v. *Fries-Breslin Co.*, 70 N. J. L. 274, 58 Atl. 313. But *cf. Dennis* v. *Joslin Manufacturing Co.*, 19 R. I. 666, 36 Atl. 129. In the principal case, the court considers the trustee in bankruptcy as standing no better than the corporation. Moreover, the other stockholders had collected their dividends. Though informal, these cannot be recovered back. *Berryman* v. *Bankers' Life Ins. Co.*, 117 N. Y. App. Div. 730, 102 N. Y. Supp. 695. Consequently, to disallow the claim would be to enforce a preferential dividend. *Cf. Stoddard* v. *Shetucket Foundry Co.*, 34 Conn. 542.

CRIMINAL LAW — STATUTORY OFFENSES — DIVISIBILITY OF OFFENSE: PRACTICE OF MEDICINE WITHOUT LICENSE. — A statute prohibited the practice of medicine without a certificate. The defendant, without such certificate, opened an office as doctor and treated two patients on the same day and five

others on different days. *Held*, that the defendant is guilty of eight separate offenses. *State* v. *Cotner*, 127 Pac. 1 (Kan.).

The distinction adopted in the principal case between continuing and divisible offenses depends on whether successive impulses are separately given. See 1 WHARTON, CRIMINAL LAW, 10 ed., § 27. That a series of mining operations, including several changes of workers and separate cuts, has been considered a single offense, suggests the inadequacy of the proposed criterion. *Regina* v. *Bleasdale*, 2 C. & K. 765. A distinction might more properly be based on whether the gravamen of the injury to the state lies in the accumulated total or in the successive elements. Thus the state may object to the desecration of the Sabbath and punish the carrying on of business without regard to the number of individual transactions. *Crepps* v. *Durden*, 2 Cowp. 640. Or the public health may be endangered by every piece of bad meat offered for sale, and each exposure, though all on the same counter, may be punished separately. *In re Hartley*, 31 L. J. Rep. N. S. 232. In the principal case both views are possible, either that the state regards each individual treatment as dangerous, or that the legislature merely seeks supervision of the practice of medicine, without assuming that every unlicensed practitioner is necessarily inefficient. The latter seems to be indicated, however, by the peculiar wording of the statute. Thus the including of the mere use of a doctor's sign in the definition of the practice condemned seems to show that the status is punished as such.

ELECTIONS — RIGHT TO APPEAR ON BALLOT UNDER PARTY NAME. — Certain persons nominated for presidential electors at the state Republican primary accepted nominations for the same office from the Progressive party, and announced their intention of voting for the nominee of that party for President. The Republican State Committee, which was authorized by statute to fill vacancies on the ballot, nominated other men to take their places and asked a writ of mandamus to compel the secretary of state to certify these men as the nominees of the Republican party. *Held*, that the writ should be granted, since, the nominees having accepted an inconsistent office, their first position on the ballot is vacant. *State ex rel. Nebraska Republican State Central Committee* v. *Wait*, 138 N. W. 159 (Neb.). See NOTES, p. 351.

EQUITY — JURISDICTION — INJUNCTION BY MUNICIPAL CORPORATION OF PUBLIC NUISANCE. — The city of Pittsburgh obtained an injunction against the defendants' holding a meeting and making incendiary speeches in the street. Such meetings had formerly resulted in blocking the streets, disturbances, and breaches of the peace when the police tried to break them up. *Held*, that the injunction be dissolved. *City of Pittsburgh* v. *Van Essen*, 60 Pittsb. Leg. J. 711 (Pa., Allegheny Co. C. P., Oct., 1912).

A public nuisance may be enjoined at the suit of the proper public officer on behalf of the public, under such circumstances as would give a court of equity jurisdiction over a private nuisance. *People* v. *City of St. Louis*, 10 Ill. 351; *District Attorney* v. *Lynn & Boston R. Co.*, 16 Gray (Mass.) 242. A private person may obtain an injunction only if he shows special injury to his property or his substantial rights. *Hamilton* v. *Whitridge*, 11 Md. 128, 69 Am. Dec. 184; *Frink* v. *Lawrence*, 20 Conn. 117. A municipal corporation may have equitable relief on the same terms. *Borough of Stamford* v. *Stamford Horse R. Co.*, 56 Conn. 381; *Inhabitants of Springfield* v. *Connecticut River R. Co.*, 4 Cush. (Mass.) 63. But it is not such a representative of the state that it may sue instead of the attorney-general on behalf of the public, unless so provided by statute. *Township of Belleville* v. *City of Orange*, 70 N. J. Eq. 244, 62 Atl. 331; *Inhabitants of Needham* v. *New York & N. E. R. Co.*, 152 Mass. 61, 25 N. E. 20. In the principal case, therefore, the fact that no proprietary interest is shown is a sufficient ground for refusing the injunction. *State* v. *Ehrlick*, 65 W. Va.